

Children & the Law Section



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February 3, 2010

TO: Members of the Wisconsin State Senate

FR: Children & the Law Section, State Bar of Wisconsin

RE: **support for AB 550/SB 375 (access to juvenile records)**

The Children & the Law Section of the State Bar of Wisconsin urge your support of Assembly Bill 550/Senate Bill 375 relating to the exchange of electronic records contained in the Consolidated Court Automation Program (CCAP) and in the Statewide Automated Child Welfare Information System (SACWIS) between the director of state courts and the Department of Children and Families.

Assembly Bill 550/Senate Bill 375 is a revised version of 2007 Assembly Bill 676 which was introduced to address issues raised by Judges Foley and Triggiano, both of whom have significant Children's Court experience. They expressed concerns about the inability of intake workers to have access to juvenile records when considering the safety of emergency out-of-home placements and other similar situations. The Judges stated "The inaccessibility of CCAP juvenile records has a deleterious effect throughout the entirety of the abuse and neglect intake, investigation, prosecution and disposition phases." The Judges further assert, "The most timely, reliable and readily accessible source of information in this regard is juvenile court Circuit Court Automation Project (CCAP) records."

The members of the Children and the Law Section committed to support the goals set forth by Judges Triggiano and Foley. We believe that AB 550/SB 375 does meet these goals and is in the best interest of children. While we recognize that there are others (district attorneys, corporations counsel, guardians ad litem, defense counsel, etc.) that would also benefit from this access, we appreciate the difficulty in opening access to these sensitive records at this time. Although we opposed the legislation last session as we thought the scope of the records that were to be made available and the breadth of those groups that would have access was too invasive for these otherwise extremely sensitive and highly protected "juvenile records" as defined in the original legislation, **we support the adoption of AB 550/SB 375 which is more narrowly tailored to meet the identified goals and strongly urge your support of AB 550/SB 375.**

The State Bar of Wisconsin establishes and maintains sections for carrying on the work of the association, each within its proper field of study defined in its bylaws. Each section consists of members who voluntarily enroll in the section because of a special interest in the particular field of law to which the section is dedicated. Section positions are taken on behalf of the section only.

The views expressed on this issue have not been approved by the Board of Governors of the State Bar of Wisconsin and are not the views of the State Bar as a whole. These views are those of the Section alone. If you have questions about this memorandum, please contact Sandy Lonergan, Government Relations Coordinator, at slonergan@wisbar.org or (608) 250-6045.

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Access to Juvenile Court Records— SB375 AB550
Testimony before the Assembly Committee on Children and Families

February 3, 2010

Relating to disclosure of juvenile court records ... and providing a penalty.

Thank you Chairwoman Grigsby and fellow members of the Committee for hearing Senate Bill 375 and Assembly Bill 550 today. I apologize that Senator Sullivan will be unable to make it as he has another hearing he needs to chair.

This bill is the result of many discussions and compromises made to legislation that was introduced last session. I would like to thank Senators Sullivan, Senator Taylor, the Chairwoman, State Courts, and the Department of Children's and Families (DCF) for helping rework this bill.

Currently, when child protective service social workers are in the process of placing a removed child, they conduct a detailed criminal background check of the residents of the placement home. This includes contacting the courts to gain access to adult and juvenile court records of those living in the placement home.

Unfortunately, situations arise where placement needs to occur outside of normal business hours. During these emergency placements, child protective service social workers have no way to access juvenile court records since the courts are closed.

This bill addresses this issue by allowing the Director of Courts to enter into an agreement with DCF to allow the transfer of electronic court records. The intent of the agreement is to have this information only accessible, as needed, by social workers during an emergency placement when the courts are closed.

In order to protect against unauthorized access of these records, there is a provision that violating the confidentiality of any accessed records carries up to a \$5,000 fine.

I'm sure each of you agree that it would be unthinkable to remove a child from their home, only to have them placed in a home where that abuse may continue because the courts were closed for the day. We must give social workers access to information they need to protect these already abused and vulnerable children.

In addition, I have distributed copies of a memo from Legislative Council detailing the changes made to Senate Bill 375 in committee. These changes were made at the request of the Director of State Courts, and addresses how the records will be transferred.

Also, there is an amendment today that I have introduced which fixes an incorrect cross reference in the Senate bill.

Thank you again for hearing this bill and I encourage your support for Senate Bill 375.